THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 10598 OF 2007

Dated 22nd June, 2007

Between:

Non-Minority Engineering &
Professional Colleges Management Association
Somajiguda, Hyderabad and another.

…Petitioners

And

The State of Andhra Pradesh,
Higher Education Department,
Secretariat, Hyderabad,
represented by its Principal Secretary
and others.

…Respondents.

ORDER:

In this writ petition, the petitioners, Non-Minority Engineering & Professional Colleges Management Association and Unaided Christian Professional Colleges Management Association, Hyderabad, have questioned the orders passed by the Committee to Oversee Conduct of CETs by the Association of Private Un-aided Professional Colleges and Allied Matters vide its proceedings dated 10.5.2007 in Lr.No.1/GV/CET-AC/2007-361 rejecting the request of the petitioners to conduct Common Entrance Test for admission into Engineering and Pharmacy courses in the member-colleges of the petitioners for the academic year 2007-08.

Admissions to Technical Institutions are governed by the statutory rules framed under the provisions of the Andhra Pradesh Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983. There are separate rules governing the admission of students in professional courses in unaided non-minority institutions issued in G.O.Ms.No.53, Higher Education (EC) Department, dated 10-5-2006 and in unaided minority institutions issued in G.O.Ms.No.54, Higher Education (EC) Department, dated 10.5.2006. Further, rules relating to entry into First Year Under Graduate Courses, namely, Engineering (including Technology/Architecture), Pharmacy, Agriculture, Medical and Dental Courses through Common Entrance Tests (EAMCET/EAMCET-AC) were framed in G.O.Ms.No.16, Education (E.C.) Department, dated 25.2.2004. As per the said rules, Association of Colleges is entitled to conduct Common Entrance

Test called as EAMCET-AC for assigning merit ranking to candidates which shall be the basis for admission of candidates to the extent of seats provided for the managements of the colleges in the State offering courses in Engineering (including Technology/Architecture), Pharmacy, Agriculture (including Veterinary), Medical (all systems of Medicine including Dental). The Rules also lay down the procedure, by which, a recognized association can seek permission for conduct of entrance test and the said rules framed in G.O.Ms.No.16 dated 25-2-2004 are amended from time to time in view of the observations made by the Honourable Supreme Court in **Islamic Academy of Education v. State of Karnataka**[1] and **P.A.Inamdar v. State of Maharashtra (S.C.)**[2]**.** The Government of Andhra Pradesh issued G.O.Ms.No.21, Higher Education (EC.2) Department, dated 17.3.2007 making several amendments to the Andhra Pradesh Common Entrance Test for entry into Engineering, Pharmacy, Agriculture, Medical and Dental Courses Rules, 2004 issued in G.O.Ms.No.16, Education (EC) Department, dated 25th February, 2004. By one of the amendments in the said G.O., clause (3) to sub-rule (1) of Rule 11 was substituted, which reads as follows:

> "(3) Irrespective of the number of Associations recognized under clause (2) above, they can conduct only one EAMCET-AC for Medical and allied courses and another for Engineering and allied courses. The AFRC shall issue notification inviting options from the Managements of all the Professional Colleges for admitting their students either through EAMCET or EAMCET-AC."

In the above scenario, the contentions advanced by the learned counsel for the parties have to be examined.

In this writ petition, it is submitted by Shri D.V.Sitharam Murthy, learned counsel appearing for the petitioners that as much as two associations, namely, Federation of A.P.Minority Educational

Institutions and A.P. Private Pharmacy Colleges Managements Association, did not want to conduct any test of their own and the request of the other association, namely, P.C.M.B was rejected as it had issued the notification of their own without waiting for any order from the competent authority, there remain only petitioner-associations which want to conduct entrance test and the same is permissible under the rules framed in this regard. Further it is submitted that though the petitioner-associations are entitled to conduct their own test in view of the judgment of the Supreme Court in **P.A. Inamdar v. State of Maharashtra (S.C.) (2 supra)** and as per the rules framed by the State Government in G.O.Ms.No.16, dated: 25.2.2004, they have been deprived of conducting their own test to make admissions to the member-colleges based on the ranking in the said test.

On the other hand, it is submitted by Shri C.Sudesh Anand, learned counsel appearing for the second respondent that in view of the very judgment of the Supreme Court relied on by the learned counsel for the petitioners, it is not permissible for the associations to conduct number of tests and the same would result in confusion in student community seeking admission to engineering and allied courses. It is further submitted that as per Rule 11 (a) (3) of the Rules for the conduct of Common Entrance Tests for entry into Under Graduate Professional Courses, irrespective of the number of Associations recognized they can conduct only one EAMCET-AC for Medical and allied courses and another for Engineering and allied courses and different associations cannot conduct different entrance examinations for one stream, namely, engineering and allied courses. As such, there is no illegality in the order impugned in the writ petition.

As per rule 11(a)(3) of the Andhra Pradesh Common Entrance Test for entry into Engineering, Architecture, Pharmacy, Agriculture,

Medical and Dental Courses Rules, 2004, all the associations of colleges established by various religious denominations have to be grouped together and such a group needs to conduct only one common entrance test called EAMCET-AC, if it wishes to conduct a separate test than EAMCET for admission of students into their member colleges.

So far as the technical institutions are concerned, there are five institutions recognized by the A.P. State Council of Higher Education, namely,

1) Un-Aided Christian Professional Colleges Management Association, 3rd Floor, Rajanigandha Apartments, Opp. Chaitanyapuri Bus Stop, Dilsukhnagar.
2) Federation of A.P. Minority Educational Institutions, H.No. 5-9-24/7/79, Aligarh Building, Hill Fort Road, Basheerbagh, Hyderabad-63.
3) A.P. Private Pharmacy Colleges Managements Association, H.No. 12-2-823/1, C/o Pulla Reddy Pharmacy College, Mehdipatnam, Hyderabad.
4) Non-Minority Engineering & Professional Colleges Management Association, 206, Metro Residency, Raj Bhavan Road, Hyderabad; and
5) Planning, Coordination & Monitoring Board for Minorities (PCMP), 6-2-977, Ajwan-e-Vizrath, Opp. Telegraph Office, Khairatabad, Hyderabad.

Out of the above associations, two recognized associations, namely, Federation of A.P.Minority Educational Institutions and A.P. Private Pharmacy Colleges Managements Association have expressed their unwillingness to conduct their own entrance test. After issuance of notification by the competent authority, it had also issued letters to the petitioners and the PCMB to come together and

to conduct common entrance test, but, in spite of the same, though initially there was some move to come together for conducting the common entrance test, but subsequently, the PCMB has gone ahead on its own and issued notification for conduct of the common entrance test named as "MEMCET" without even approval from the competent authority. As there was no unanimity among the recognized associations willing to conduct EAMCET-AC for engineering stream and as Rule 11(a)(3) of the Rules permits the associations of colleges to conduct only one common entrance test, the second respondent rejected the request of the petitioners and also the PCMB. The Committee also declared the notification issued by the PCMP for MEMCET for admission of students into 14 engineering colleges and 4 pharmacy colleges without its approval as illegal by the impugned proceedings.

It is brought to the notice of this court that as against the impugned orders, the Planning, Coordination and Monitoring Board for Minorities (PCMB) has filed I.A.Nos. 100-101/2007 in Writ Petition (Civil) No. 350 of 1993 before the Honourable Supreme Court and the learned Standing Counsel appearing for the A.P.State Council of Higher Education has placed a copy of the order passed by the Supreme Court on 8.6.2007 before this court, which reads as follows:

> "The petitioner (applicant) without prejudice to the stand of the State that the petition is not maintainable, may conduct the test. But, no equity shall be claimed and the students shall appear at their own risk.
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> The result shall not be published without leave of this Court.
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> List this matter after reopening."

Therefore, as one common entrance test, validity of which is under consideration by the Honourable Supreme Court, is permitted to be conducted in view of the interim orders dated 8.6.2007 passed by the Honourable Supreme Court in I.A.Nos. 100-101/2007 in Writ

Petition (Civil) No. 350 of 1993, and, having regard to Rule 11(a)(3) of the Andhra Pradesh Common Entrance Test for entry into Engineering, Pharmacy, Agriculture, Medical and Dental Courses Rules, 2004 issued in G.O.Ms.No.16, dated 25.2.2004, by which, only one EAMCET-AC is permitted to be conducted irrespective of the number of associations of the colleges, no relief can be granted in this writ petition at this stage. The Honourable Supreme Court in **P.A.Inamdar v. State of Maharashtra (2 supra)** also held thus:

> "There is nothing wrong in an entrance test being held for one group of institutions imparting same or similar education. Such institutions situated in one State or in more than one State may join together and hold a common entrance test or the State may itself or through an agency arrange for holding of such test. Out of such common merit list the successful candidates can be identified and chosen for being allotted to different institutions depending on the courses of study offered, the number of seats, the kind of minority to which the institution belongs and other relevant factors. Such an agency conducting Common Entrance Test (CET, for short) must be one enjoying utmost credibility and expertise in the matter. This would better ensure the fulfillment of twin objects of transparency and merit."

In the very same judgment, it is further observed by the Honourable Supreme Court that if the student is required to appear in several tests, he would be subjected to unnecessary and avoidable expenditure and inconvenience. Therefore, even as per the observations made by the Honourable Supreme Court, it is not desirable to allow number of tests which will create confusion and inconvenience for the student community seeking entry in the technical institutions.

Therefore, as the Supreme Court is seized of the matter and having regard to Rule 11(a)(3) of the Andhra Pradesh Common Entrance Test for entry into Engineering, Pharmacy, Agriculture, Medical and Dental Courses Rules, 2004, and, also the observations of the Honourable Supreme Court in **P.A.Inamdar v.**

State of Maharashtra (2 supra), I do not find any ground for grant of the relief sought for in this writ petition and the writ petition is dismissed at the stage of admission. No costs.

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22-6—2007 **R.SUBHASH REDDY, J.**

VR.

Though out of the 5 recognized associations, two associations have expressed their unwillingness to conduct their own entrance test, even among the rest of the three associations, there is no uniformity and coordinate to conduct the entrance test.

Rest of the three recognized associations also did not co-ordinate themselves to conduct a single test as permissible under the rules. As such, as there is no unanimity among the recognized associations to conduct common entrance test and as more than one test i.e. EAMCET-AC cannot be conducted for one stream in view of the prohibition contained in clause (3) to sub-rule (a) of Rule 11 of the Andhra Pradesh Common Entrance Test for entry into Engineering, Pharmacy, Agriculture, Medical and Dental Courses Rules, 2004, the requests of the petitioners herein and the Planning, Coordination & Monitoring Board for Minorities (PCMB) for conducting separate entrance tests for admission of students into Engineering/Pharmacy Colleges are rejected by the Committee to Oversee conduct of CETs by the Association of Private Un-Aided Professional Colleges and Allied Matters by the impugned proceedings.

The said order of rejection is challenged before the Honourable Supreme Court by filing I.A.Nos. 100-101/2007 and the Honoruable Supreme Court passed interim orders allowing the association to conduct the test at its own risk and is seized of the matter.

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[1] (2003) 6 SCC 679

[2] 2005(5) SLR 409